

2685.2046 US3  
Expedited Procedure under 37 CFR 1.116  
Examining Group 1616

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Jason Summa

Application No: 10/607,571

Group No.: 1616

Filed: June 26, 2003

Examiner: Alstrum Acevedo, James Henry

Confirmation No.: 6287

Title: INHALABLE EPINEPHRINE

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THIRD PETITION UNDER 37 CFR 1.181

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Sir:

This is the third petition filed under 37 CFR 1.181 in the above identified application. The first petition regarding the finality of the Office action was timely filed on June 6, 2006 under 37 CFR 1.181. No decision was received. A second petition regarding the finality of the office action and the refusal to enter the Amendment After Final was filed on the August 9, 2006. A decision with respect to the finality of the Office action was mailed on October 3, 2006. The petition with respect to the entry of the Amendment After Final was not apparently considered in that decision. Reconsideration is respectfully requested.

An Amendment after Final Rejection was filed on July 20, 2006. The amendment was refused entry in the Advisory Action dated August 1, 2006.

Application No.: 10/607,571  
Petition under Rule §1.181

The Amendment introduces into independent Claim 140 (directed to methods of administering particles containing epinephrine possessing specified physical characteristics) Claim 155 (limiting the method of administration to an inhalation to a single breath activated step), eliminating the need for Claims 151 and 154 of intermediate scope, and the dose of Claim 152. The Advisory Action appears to recognize that the amendment does not raise the issue of new matter or any other new issue. The reason for refusing to enter the amendment is that the amendments do not simplify or reduce the issues on appeal. No explanation in this regard is given. Applicants respectfully disagree. An amendment that adds the limitations of a dependent claim into the independent claim clearly reduces the issues on appeal as it effectively eliminates the appeals and issues relating to the broader and independent claim.

No fee is believed to be due. Nonetheless, in the event that the USPTO determines that a fee is necessary, please charge the fees to Deposit Account No. 502807. Please charge any deficiency or credit any overpayment in the fees that may be due in this matter to Deposit Account No. 502807.

Respectfully submitted,

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